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BALLOT ACCESS NEWS

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COURTS IN FOUR STATES EASE NUMBER OF SIGNATURES FOR CANDIDATES OR PARTIES, DUE TO HEALTH CRISIS

Courts in four states have eased the number of signatures for candidates or parties, because petitioning is almost impossible due to the health crisis. Most of the decisions involve petitions to get on a primary ballot, not a general election ballot.

Colorado: on April 21, a state trial court put Michelle Ferrigno Warren on the June 30 Democratic primary ballot for U.S. Senate, even though she needed 10,500 valid signatures and only had 5,383. *Warren v Griswold*, 20cv-31077, Denver District Court. The decision says, "Signature collection is a 'very personal activity'...in the best of times, engaging strangers in public, holding their attention, and acquiring their signatures on a petition is challenging."

On April 24 the state filed an appeal, and two other candidates for U.S. Senate, Lorena Garcia and Diana Bray, have filed their own similar lawsuits. Garcia had collected more signatures than Warren.

Illinois: on April 23, U.S. District Court Judge Rebecca Pallmeyer, a Clinton appointee, put the Libertarian and Green Parties on the ballot for the two 2020 statewide offices, President and U.S. Senate. She also cut the number of signatures for other minor party and independent candidates down to one-tenth of the original requirement. *Libertarian Party of Illinois v Pritzker*, n.d., 1:20cv-2112. Minor parties and independent presidential candidates, other than the Green and Libertarian Parties, will thus need 2,500 signatures.

The basis for putting the Libertarian and Green Parties on the ballot automatically is that they were both on in 2016 and polled respectable votes, even though neither polled the 5% needed to keep them on the ballot.

The order also extends the petition deadline from June 22 to August 7. Illinois officials were handicapped when they tried to defend the existing law, because the petitioning period runs from late March to late June. If Illinois permitted these petitions to circulate as early as the groups wished, then officials could have argued that they should have started before the crisis began. But in 1985 the state had passed a law saying petitions could not circulate until three months before the deadline, and the allotted time period is entirely in the crisis time period.

Massachusetts: on April 17, the State Supreme Judicial Court cut the signatures needed for primary petitions in half, and also extended the deadline for legislative candidates from April 28 to May 5. The deadline for congressional and statewide primary petitions had already been May 5. *Goldstein v Secretary of the Commonwealth*, SJ-12931.

Unfortunately, the opinion stresses that in normal times, the severe primary petitions are necessary. The Justices seemed to have no idea that even in normal times, primary petitions in the state are far too difficult. This is why over one-third of all U.S. House elections during the last 50 years in Massachusetts have only had one candidate on the ballot. No other state has a record remotely similar. Among the other New England states, never in the history of government-printed ballots have Connecticut, New Hampshire, or Rhode Island had a U.S. House race with only one candidate on the ballot. And it only happened once in Vermont (1968) and once in Maine (1942). By contrast, in the last fifty years, it has happened 85 times in Massachusetts.

No other state requires as many as 2,000 signatures for a primary candidate for U.S. House. Furthermore, that number applies no matter how many or few registrants the party has. Before 1998, small qualified parties only needed half as many signatures, but in 1998 the legislature doubled the number for such parties.

See the charts on pages four and five to see how many one-candidate elections have been held 1972-2018 in each state. The states with the next-highest share of such U.S. House elections are Florida and Georgia.

Michigan: on April 20, U.S. District Court Judge Terrence Berg, an Obama appointee, cut the number of primary signatures in half, and moved the deadline from April 21 to May 8. *Esshaki v Whitmer*, e.d., 2:20cv-10831. On April 25, he refused to reconsider his decision.

NEW YORK MAKES BALLOT ACCESS WORSE

On April 1, the New York legislature passed the budget bill, which included a provision increasing the number of signatures for a statewide independent, or the nominee of an unqualified party, from 15,000 signatures to 45,000 signatures. The budget bill also made it far more difficult for a group to qualify as a political party, by raising the vote test from 50,000 votes for Governor, to 130,000 or 2% of the state total, whichever is greater. And now the vote test must be met every two years, instead of every four years. A lawsuit is pending against the new definition of a political party, *SAM Party v Kosinski*, s.d., 1:20cv-323. It is extremely likely there will be lawsuits filed against the new petition requirement.

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VERMONT WAIVES PETITIONS FOR 2020

On March 30, Vermont Governor Phil Scott signed HB 681, which says any candidate can get on either a primary ballot or the general election ballot in 2020 with no petition.

UTAH ELIMINATES STRAIGHT-TICKET

On March 24, Utah Governor Gary Herbert signed HB 70, which deletes the straight-ticket device. Now the only states that still have it are Alabama, Indiana, Kentucky, Michigan, Oklahoma, and South Carolina.

UTAH IMPROVES INDEPENDENT LABEL

On March 30, Utah SB 28 was signed into law. It deletes the requirement that independent candidates must have a ballot label that says the candidate "does not qualify to be listed on the ballot as affiliated with a political party." An independent candidate in 2018 had discovered that this label injured her campaign, and she had sued; this bill settles the lawsuit.

VIRGINIA ALLOWS OUT- OF-STATE PETITIONERS

On March 27, Governor Ralph Northam signed HB 214, which legalizes petitioning by out-of-state persons.

COURT ALLOWS LATER VIRGINIA NOMINATIONS

On April 14, a state trial court granted an injunction against the law that says party nominating conventions must be held no later than June 9. *Seventh District Republican Committee v Virginia Department of Elections*, 13th jud., city of Richmond, Dist., CL20001640-00. Virginia lets major parties nominate by convention instead of primary, and the Republican Party in the 7th U.S. House district is using a convention. The party wants to hold its convention later, for health reasons.

NEW BALLOT ACCESS LAWSUITS

Arkansas: on April 27, several independent candidates filed a lawsuit in federal court to obtain a reduction in the number of signatures, and a later petition deadline. The deadline for non-presidential independents is May 1, and statewide independents (for office other than president) need 10,000 signatures. *Whitfield v Thurston*, e.d.

Connecticut: on April 4, the Libertarian Party filed a federal lawsuit to suspend the need for it to petition for any of its nominees. In this state, a party is ballot-qualified office-by-office. If it got 1% for a particular office in the last election, it is on the ballot for that office. The party is already qualified for two statewide offices, president and treasurer. The lawsuit says the state should not require petitions for any of the positions for which the party did not poll 1% in the last election, because the fact that it polled enough votes for some offices ought to show that it has a modicum of support. *Libertarian Party of Connecticut v Merrill*, 3:20cv-467. The Secretary of State agrees with the party, relative to 2020 only, and the case may be resolved soon by a settlement.

Montana: on March 27, John Meyer, an independent candidate for Attorney General, filed a lawsuit to force the state to recognize electronic signatures. *Meyer v Stapleton*, 18th jud. District, Gallatin Co., DV-20-362C. He may soon amend his complaint to also challenge the requirement that he collect 16,639 signatures by May 26.

PRESIDENTIAL ELECTOR CASE

The U.S. Supreme Court will hear the two cases over "disobedient" presidential electors on May 13. The two cases had been set for April 28, but were delayed due to the health crisis. The two cases over President Trump's tax returns will be argued on May 12.

SOME STATES EASE BALLOT ACCESS BY ADMINISTRATIVE FIAT

Florida: on April 3, the state said candidates may obtain electronic signatures. There are no mandatory petitions for candidates in this state, except president. But the filing fees are so high, many candidates try to qualify with petitions in lieu of filing fee, and this order will help them.

Georgia: on March 20, the state extended the petition deadline for independent and minor party candidates from July 14 to August 14.

Maine: on April 10, the petition deadline for independent candidates and the nominees of unqualified parties was extended from May 26 to June 26. The presidential deadline continues to be August 3.

New Jersey: on April 8, the state said all candidates may submit electronic signatures. Also the independent petition deadline for office other than president was moved from June 2 to July 7. The presidential deadline continues to be July 27.

Oklahoma: on March 18, the state suspended the requirement that initiative petitions be completed within 90 days.

Texas: on March 23, the state extended the non-presidential independent candidate petition deadline from June 26 to August 13. But the state did not move the independent presidential deadline, which continues to be May 11.

Texas(2): on April 6, the state said qualified parties that nominate by convention need not hold conventions on April 18, but can hold them later. Also they may be virtual.

Utah: on March 26, the state said candidates may submit electronic signatures.

Virginia: on April 8, the state moved the petition deadline for non-presidential candidates from June 9 to June 23. The state did not change the presidential petition deadline, which continues to be August 21.

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OTHER LAWSUIT NEWS

Arizona: on April 17, U.S. District Court Judge Dominic Lanza, a Trump appointee, refused to order the state to permit electronic signatures for initiatives, even though the state already permits them for non-presidential candidate petitions, and even though the Secretary of State supports the idea. *Arizonans for Fair Elections v Hobbs*, 2:20cv-658. An emergency appeal was then filed in the Ninth Circuit, and briefs are due May 1. 20-15719.

Arkansas: on April 22, proponents of an initiative filed a federal lawsuit to cut the number of signatures needed for initiatives, to extend the deadline, and to allow electronic signatures. *Miller v Thurston*, w.d., 5:20cv-5070. The case is assigned to Judge Paul K. Holmes, an Obama appointee. The initiative is for a non-partisan redistricting commission, and proponents say it is vital that it qualify for the 2020 ballot, because if it passes, but is not on the ballot until after the 2030 census.

Delaware: the U.S. Supreme Court won't hear *Carney v Adams* until October or later. Originally it had been set for March 25, but then the Court cancelled that hearing due to the health crisis. This is the case over the law that does not permit anyone except Republicans or Democrats to be appointed to most judicial positions.

Florida: a U.S. District Court will hear *Independent Party of Florida v Lee*, n.d., 4:20cv-110, on June 5. This is the case that challenges the law that says ballot-qualified parties can't be on for president unless they are recognized by the Federal Election Commission as a "national committee", or unless they submit 132,781 signatures by July 15.

Georgia: on April 20, a group of voters filed a federal lawsuit against the state's touch-screen voting machines. The case also says the primary should be postponed from June 9 to June 30.

It argues that paper ballots are the only safe method for voting, because the machines might spread the virus. *Coalition for Good Governance v Raffensperger*, n.d., 1:20cv-1677. The case is assigned to U.S. District Court Judge Timothy Batten, a Bush Jr. appointee.

Illinois: on April 17, U.S. District Court Judge Rebecca Pallmeyer refused to grant injunctive relief to proponents of two initiatives, one statewide and one local. They had asked for a cut in the number of signatures and the ability to gather electronic signatures. *Morgan v White*, n.d., 1:20cv-2189.

Maine: on April 15, supporters of Ranked Choice Voting filed a state lawsuit, arguing that the referendum petition being circulated by the Republican Party to stop RCV in the presidential election is void. The issue is very technical and relates to the proper time period for circulating referendum petitions.

Michigan: on April 20, the state appealed *Graveline v Benson* to the Sixth Circuit. This is the case in which the lower court had invalidated the law that required statewide independents to 30,000 signatures.

Michigan (2): on April 15, the Sixth Circuit agreed with the lower court that the non-partisan redistricting commission does not violate the U.S. Constitution. *Daunt v Benson*, 19-2377. The Republican Party had filed the lawsuit.

Montana: on April 15, proponents of a statewide initiative filed a state court lawsuit over the rules for initiatives. They seek permission to use electronic signatures. *New Approach Montana v State*, first jud. District, Lewis & Clark Co., BDV-2020-444.

Texas: the state Appeals Court will hear *Dikeman v Hughs*, 14-19-969CV, 14th dist., on June 23. This is the case on whether minor party members must pay a filing fee if they want to be considered for nomination at a party that uses conventions instead of primaries to nominate.

Montana (2): on April 15, the Green Party asked the Ninth Circuit to overturn the U.S. District Court decision that upheld the state's unequal distribution requirement for the new party petition. The case arose in 2018. It is not a pressing matter because it appears the party's 2020 petition complied with the requirement. *Montana Green Party v Stapleton*, 20-35340.

Washington: on March 30, the U.S. Supreme Court refused to hear *Elster v Seattle*, 19-608. This was the challenge to Seattle's voucher system of campaign finance. The lawsuit had been filed by people who felt it violates the First Amendment for them to pay taxes that go to the campaigns of candidates they don't agree with.

BOOK REVIEW: A SHORT HISTORY OF PRESIDENTIAL ELECTION CRISES

A Short History of Presidential Election Crises, and How to Prevent the Next One, by Alan Hirsch, 2020.

The point of this book is to advocate that the U.S. set up a non-partisan body to adjudicate disputed presidential elections, before the next crisis happens. To bolster the point that we need such a body, the book reviews past contested presidential elections: 1800, 1824, and especially 1876 and 2000. The book also considers the hypothetical of an election in which an unfriendly foreign power managed to use electronic means to tamper with vote-counting equipment.

BOOK REVIEW: A FAITHFUL REMNANT

A Faithful Remnant: The Prohibition Party, 1972-2016, by James Hedges.

The last history of the Prohibition Party, *Partisan Prophets*, by Roger Storms, was published in 1972. This book updates that history, and for those interested in minor party history, it is a unique reference. It is 137 pages.

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NUMBER OF U.S. HOUSE RACES WITH ONLY ONE CANDIDATE, 1972-1994

State	1972	1974	1976	1978	1980	1982	1984	1986	1988	1990	1992	1994	TOTAL
Al	0	1	2	2	0	1	1	1	0	2	0	1	11
Ak	0	0	0	0	0	0	0	0	0	0	0	0	0
Az	0	0	0	0	0	0	1	1	0	1	0	0	3
Ar	3	1	2	2	3	0	3	0	1	0	0	0	15
Ca	1	3	1	2	0	0	1	0	0	1	0	0	9
Co	0	0	0	0	0	0	0	0	0	0	0	1	1
Ct	0	0	0	0	0	0	0	0	0	0	0	0	0
De	0	0	0	0	0	0	0	0	0	0	0	0	0
DC	0	0	0	0	0	0	1	0	0	0	0	0	1
Fl	3	6	4	4	1	3	7	9	8	5	2	11	63
Ga	6	2	3	5	2	3	4	4	2	0	0	0	31
Hi	0	0	0	0	0	0	0	0	0	0	0	0	0
Id	0	0	0	0	0	0	0	0	0	0	0	0	0
Il	1	1	0	1	0	0	0	1	1	2	0	1	8
In	0	0	1	0	0	0	0	0	0	0	0	0	1
Ia	0	0	0	0	0	0	0	0	0	3	1	0	4
Ks	0	0	0	2	0	0	0	1	1	0	0	0	4
Ky	0	0	0	2	2	1	1	3	0	2	0	0	11
La	6	4	1	1	1	2	3	3	2	1	0	0	24
Me	0	0	0	0	0	0	0	0	0	0	0	0	0
Md	0	1	0	1	0	0	1	0	1	0	0	0	4
Ma	4	3	3	5	3	3	2	5	3	4	0	3	38
Mi	0	0	0	0	0	0	1	0	0	1	0	0	2
Mn	0	0	1	0	0	0	0	0	0	0	0	0	1
Ms	2	1	1	0	1	0	1	1	0	1	0	0	8
Mo	0	0	0	0	0	0	1	1	0	0	0	0	2
Mt	0	0	0	0	0	0	0	0	0	0	0	0	0
Neb	0	0	0	0	0	1	0	0	0	0	0	0	1
Nev	0	0	0	0	0	0	0	0	0	0	0	0	0
NH	0	0	0	0	0	0	0	0	0	0	0	0	0
NJ	0	0	0	0	0	0	0	0	1	0	0	0	1
NM	0	0	0	1	0	0	0	0	1	1	0	0	3
NY	0	0	0	1	0	0	0	0	4	2	0	0	7
NC	1	3	1	1	1	0	0	0	2	0	0	1	10
ND	0	0	0	0	0	0	0	0	0	0	0	0	0
Oh	1	1	0	2	2	1	2	2	1	1	1	3	17
Ok	0	2	0	1	1	0	0	1	2	0	0	0	7
Or	1	0	0	0	0	0	0	0	1	0	0	0	2
Pa	0	1	1	0	1	0	1	2	4	6	2	4	22
RI	0	0	0	0	0	0	0	0	0	0	0	0	0
SC	1	0	1	1	0	0	0	1	0	2	0	1	7
SD	0	0	0	0	0	0	0	0	0	0	0	0	0
Tn	1	2	1	1	2	2	4	1	2	2	0	0	18
Tx	9	7	5	2	4	0	9	6	6	11	2	4	65
Ut	0	0	0	0	0	0	0	0	0	0	0	0	0
Vt	0	0	0	0	0	0	0	0	0	0	0	0	0
Va	2	2	1	4	3	2	2	3	3	2	0	1	25
Wa	0	0	0	0	0	0	0	0	1	0	0	0	1
WV	0	1	1	1	0	0	0	1	1	1	1	0	7
Wi	0	0	1	0	0	1	0	2	1	3	0	2	10
Wy	0	0	0	0	0	0	0	0	0	0	0	0	0
Tot	42	42	31	42	27	20	46	49	49	54	9	33	444

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NUMBER OF U.S. HOUSE RACES WITH ONLY ONE CANDIDATE, 1996-2018

State	1996	1998	2000	2002	2004	2006	2008	2010	2012	2014	2016	2018	Total
Al	0	2	0	0	1	3	3	2	1	2	3	1	18
Ak	0	0	0	0	0	0	0	0	0	0	0	0	0
Az	0	0	0	0	0	0	0	0	0	0	1	0	1
Ar	0	1	1	2	1	1	1	0	0	0	0	0	7
Ca	0	1	0	0	2	7	7	2	0	0	0	0	19
Co	0	0	0	0	0	0	0	0	0	0	0	0	0
Ct	0	0	0	0	0	0	0	0	0	0	0	0	0
De	0	0	0	0	0	0	0	0	0	0	0	0	0
DC	0	0	0	0	0	0	0	0	0	0	0	0	0
Fl	3	17	6	8	9	2	2	1	2	5	1	5	61
Ga	1	3	1	2	5	1	2	3	3	7	5	2	35
Hi	0	0	0	0	0	0	0	0	0	0	0	0	0
Id	0	0	0	0	0	0	0	0	0	0	0	0	0
Il	0	3	1	2	0	1	1	0	0	0	4	0	12
In	0	0	0	0	0	0	0	0	0	0	0	0	0
Ia	0	1	0	0	0	0	0	0	0	0	0	0	1
Ks	0	0	0	0	0	0	0	0	1	0	0	0	1
Ky	1	0	0	0	1	0	0	0	0	0	2	0	4
La	3	5	1	0	1	0	2	1	0	0	0	0	13
Me	0	0	0	0	2	0	0	0	0	0	0	0	2
Md	0	0	0	0	0	1	0	0	0	0	0	0	1
Ma	1	3	5	6	4	5	6	1	2	6	4	4	47
Mi	0	0	0	0	0	1	0	0	0	0	0	0	1
Mn	0	0	0	0	0	0	0	0	0	0	0	0	0
Ms	0	0	0	0	0	0	0	0	0	0	0	0	0
Mo	0	0	0	0	0	0	0	0	0	0	0	0	0
Mt	0	0	0	0	0	0	0	0	0	0	0	0	0
Neb	0	0	0	0	0	0	0	0	0	0	1	0	1
Nev	0	0	0	0	0	0	0	0	0	0	0	0	0
NH	0	0	0	0	0	0	0	0	0	0	0	0	0
NJ	0	0	0	0	0	2	0	0	0	0	0	0	2
NM	0	0	0	1	0	0	0	0	0	0	0	0	1
NY	0	1	1	1	1	4	1	0	0	3	1	2	15
NC	0	0	0	0	0	1	0	0	0	1	0	1	3
ND	0	0	0	0	0	0	0	0	0	0	0	0	0
Oh	0	0	0	1	2	0	0	0	2	1	0	0	6
Ok	0	0	0	0	0	0	0	1	0	1	1	0	3
Or	0	0	0	0	0	0	0	0	0	0	0	0	0
Pa	0	2	2	1	2	1	0	1	0	3	3	1	16
RI	0	0	0	0	0	0	0	0	0	0	0	0	0
SC	0	0	0	0	1	0	0	0	1	1	0	0	3
SD	0	0	0	0	0	0	0	0	0	0	0	0	0
Tn	0	2	2	1	1	0	1	0	0	0	0	0	7
Tx	0	0	0	3	1	3	1	0	1	1	1	0	11
Ut	0	0	0	0	0	0	0	0	0	0	0	0	0
Vt	0	0	0	0	0	0	0	0	0	0	0	0	0
Va	1	3	3	5	1	1	2	0	0	1	1	1	19
Wa	0	0	0	0	0	0	0	0	0	0	0	0	0
WV	2	0	0	1	0	0	1	0	0	0	0	0	4
Wi	0	0	0	1	0	1	0	0	0	0	1	1	4
Wy	0	0	0	0	0	0	0	0	0	0	0	0	0
Tot	12	44	23	35	35	35	30	12	13	32	29	18	318

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LEGISLATORS IN TWO STATES FAIL TO GET ON PRIMARY BALLOT, DUE TO PAPERWORK ERRORS

New Mexico: Representative Patricio Ruizloba, a Democrat who was first elected in 2014, failed to get on the June primary ballot this year because his petition accidentally omitted his district number. New Mexico permits write-ins in primaries and he will probably seek to win via write-ins.

New York: Assemblymember Rebecca Seawright, a Democrat who was first elected in 2014, failed to include a cover sheet when she submitted her primary petition. She will try to get on the November ballot as an independent. No other Democrat is running.

LIBERTARIAN PARTY CONVENTION

On April 5, former Senator and Governor Lincoln Chafee said he is ending his campaign for the Libertarian nomination. On April 13, Jim Gray, who was a California judge for twenty years and who was the party's vice-presidential nominee in 2012, said he will seek the nomination.

The party's national committee will meet May 2 to decide whether to move the date of the national convention.

DEMOCRATIC PARTY DELAYS PRESIDENTIAL CONVENTION

On April 2, the Democratic National Committee decided to move the 2020 presidential convention from July 13-16, to mid-August, possibly August 17-20, although the length of the convention may be shorter. The convention will remain in Milwaukee. On April 8, Bernie Sanders said he is no longer seeking the party's nomination.

No change is planned for the Republican convention, which will be August 24-27 in Charlotte.

COMMON SENSE PARTY CLAIMS PROGRESS ON REGISTRATION DRIVE

The Common Sense Party, which exists only in California, is hoping to become ballot-qualified. It needs approximately 67,000 registered members. On April 11 it said that it now has 20,415. If it could qualify by July 6, it would be entitled to place a presidential nominee on the November 2020 ballot in California.

ALLIANCE PARTY NOMINATES

On April 25, the Alliance Party held a virtual presidential convention using Zoom. It nominated Rocky De La Fuente for president and Darcy Richardson for vice-president. Delegates were asked to vote "Yes" or "No" in that ticket. The vote was 24-2. The party is on the ballot in Delaware and South Carolina, and probably soon will be on in Connecticut for president. In a few states, De La Fuente will be barred by a state "sore loser" law, since he ran in some Republican presidential primaries this year. In those states, the ticket will probably be reversed, so that Richardson will be the presidential nominee and De La Fuente the vice-presidential nominee.

UNITY PARTY NOMINATES

On April 4, the Unity Party held a virtual presidential convention using Webex. It chose Bill Hammons, the party's founder, for President; and Eric Bodenshtab for Vice-President. It is on the ballot in Colorado.

THREE LIBERTARIANS ELECTED TO WISCONSIN NON-PARTISAN OFFICE

On April 7, three members of the Libertarian Party were elected or re-elected to Wisconsin non-partisan local office. They are Brian Defferding to the Winnebago County Board; Jose Prohaska to the Appleton city council; and Robert Reynolds to the Edgerton city council.

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